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UNCLAS SECTION 01 OF 02 KATHMANDU 000363

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SUBJECT: INDO-NEPAL COMMERCIAL TRANSPORTATION
NEGOTIATIONS STALL

SUMMARY

1. ON FEBRUARY 10-14, REPRESENTATIVES FROM INDIA AND NEPAL MET IN KATHMANDU TO NEGOTIATE RAILWAY AND TRANS-BORDER MOTOR VEHICLE TRAFFIC AGREEMENTS, WITH LIMITED RESULTS. THE GOVERNMENT OF NEPAL (GON), UNDER SIGNIFICANT PRESSURE TO OPEN ITS WORLD BANK-FUNDED INLAND CONTAINER DEPOT (ICD), MADE A NUMBER OF COMPROMISES INCLUDING AGREEING TO INDIAN MANAGEMENT OF THE DEPOT AND TO REDUNDANT CUSTOMS PROCEDURES FOR TRANSTING CARGO. INDIA'S INSISTS ON LINKING CONCESSIONS MADE MOTOR VEHICLE TRAFFIC TO PROGRESS ON A RAILWAY AGREEMENT. INDIA'S NEGOTIATING PLOY COMES AT THE EXPENSE OF NEPALI CONSUMERS AND EXPORTERS, WHO WOULD BENEFIT FROM THE ESTIMATED FORTY PERCENT REDUCTION IN TRANSPORTATION COSTS THAT WOULD ENSUE FROM IMPLEMENTATION OF THE ICD. END SUMMARY.

NEPAL-INDIA TRANSPORTATION NEGOTIATIONS

2. ON FEBRUARY 10-14, REPRESENTATIVES FROM INDIA AND NEPAL MET IN KATHMANDU FOR THE THIRD ROUND OF TALKS ON THE NEPAL-INDIA RAILWAYS AGREEMENT (NIRA) AND REGULATION OF TRANS-BORDER MOVEMENT OF MOTOR VEHICLES (RTMMV). THE NEGOTIATIONS WERE HELD IN CONSECUTIVE MEETINGS DURING THE WEEK BUT WITH FEW RESULTS.

NIRA KEY TO NEPAL'S TRADE FUTURE

3. THE REPRESENTATIVES OF THE GOVERNMENT OF INDIA (GOI) AND OF THE GOVERNMENT OF NEPAL (GON) FACED THE SAME THORNY ISSUES IDENTIFIED IN THE FIRST TWO NEGOTIATING ROUNDS ON THE RAILWAY TREATY, IDENTIFYING AN OPERATOR FOR THE BIRGUNJ INLAND CONTAINER DEPOT (ICD) AND AGREEING TO SIMPLIFIED CUSTOMS CLEARANCE PROCEDURES. THE GON IS UNDER PRESSURE TO CONCLUDE THE AGREEMENT, AS THE ICD IS IN DEFAULT TO THE WORLD BANK FOR THE USD 28.5 MILLION PROJECT. THE WORLD BANK HAS EXTENDED THE DEADLINE FOR THE ICD'S OPERATION TO SEPTEMBER 2003; SHOULD IT LAPSE, THE BANK MAY BE FORCED TO LIQUIDATE THE FACILITY. (NOTE: TWO OTHER ICDS IN BHAIKAWA AND BIRATNAGAR ARE ALREADY IN OPERATION, WHILE THE BIRGUNJ FACILITY, WHICH IS THE ONLY FACILITY WITH RAIL CONNECTIONS AND THE TRADITIONAL TRADE ROUTE WITH THE PORTS IN KOLKATA, IS YET TO OPEN. END NOTE.) ONCE THE BIRGUNJ ICD COMES INTO FULL OPERATION, TRANSPORTATION COSTS FOR NEPALI EXPORTERS, MOST OF WHOSE GOODS TRANSIT INDIA, ARE EXPECTED TO DROP BY 40 PERCENT.

4. INDIA HAS DELAYED FINALIZATION OF A RAILWAY AGREEMENT, INSISTING ON INSPECTING CONTAINERS BOTH AT THE PORT OF ENTRY AND ON THE INDIAN SIDE OF THE BORDER BEFORE ENTRY INTO NEPAL. THE GON HAS INSISTED ON A "ONE-TIME LOCK" SYSTEM, ENSURING DIRECT ENTRY OF THE CONTAINERS TO THE ICD ONCE THEY HAD BEEN INSPECTED AND LOCKED IN KOLKATA, INDIA. INDIA HAS ALSO STIPULATED THAT, IN POSSIBLE CONTRAVENTION OF THE TERMS OF THE WORLD BANK LOAN, THAT THE CONTRACT FOR OPERATING THE ICD INCORPORATE AN INDIAN MANAGER. ACCORDING TO NEPAL'S LEAD NEGOTIATOR, PURUSHOTTAM OJHA OF THE MINISTRY OF INDUSTRY, COMMERCE, AND SUPPLY, NEPAL CONCEDED TO INDIA'S DEMANDS. FOR THEIR PART, INDIAN NEGOTIATORS AGREED TO SIMPLIFY DOCUMENT REQUIREMENTS AND CUSTOMS CLEARANCE PROCEDURES.

NEPAL-INDIA MOTOR VEHICLE TRANSPORTATION TALKS

6. NEPAL AND INDIA HELD SEPARATE BILATERAL NEGOTIATIONS ON THE REGULATION OF TRANS-BORDER MOVEMENT OF MOTOR VEHICLES (RTMMV), WHICH ALSO GARNERED FEW RESULTS. THE NEGOTIATIONS FOCUSED ON TWO AREAS OF CONCERN: PASSENGER TRANSPORTATION AND CARGO TRANSPORTATION.

7. ACCORDING TO DR. MADAN BHATTARAI, MINISTRY OF

FOREIGN AFFAIRS JOINT SECRETARY FOR SOUTH ASIA, GON REPRESENTATIVES OFFERED DIRECT BUS SERVICES TO 11 MAJOR NEPALI CITIES FOR INDIAN BUS OPERATORS. HOWEVER, INDIA, CITING SECURITY CONCERNS, REPORTEDLY STOOD FIRM IN BARRING DIRECT ACCESS FOR NEPALI VEHICLES TO MAJOR CITIES LIKE DELHI, KOLKATA, AND PATNA, LEADING NEPAL TO DENY ENTRY INTO KATHMANDU AND POKHARA. IN TERMS OF CARGO TRANSPORTATION, INDIA REQUESTED THE FREE PASSAGE OF CARGO VEHICLES WITHIN NEPAL. NEPALI TRUCKING COMPANIES AND THEIR ASSOCIATIONS EFFECTIVELY PRESSURED THE GON DENY THE INDIAN REQUEST. NEPALI TRANSPORT COMPANIES FELT THREATENED, AS CARGO COMING FROM INDIA AND INDIAN PORTS WOULD NO LONGER REQUIRE TRANSFER TO NEPALI CARRIERS AND NEPALI OPERATORS HAVE LITTLE CONFIDENCE THEY WOULD RECEIVE RECIPROCAL TRANSIT RIGHTS IN PRACTICE.

COMMENT

18. OBSERVERS HERE ARE SKEPTICAL OF AN EARLY RESOLUTION TO THE PROBLEMS RAISED DURING THE NIRA AND RTMMV NEGOTIATIONS. INDIA'S NEGOTIATING TACTICS ON NIRA LEVERAGE NEPAL'S DEPENDENCE ON INDIAN PORTS, AND ITS LIABILITY TO THE WORLD BANK FOR THE CONTAINER DEPOT. DUE TO THE OPEN BORDER, INDIA'S CROSS-BORDER SECURITY CONCERNS DO NOT STAND UP TO SCRUTINY AND APPEAR TO BE ANOTHER MEANS TO DEFLECT NEPAL'S REQUESTS FOR RECIPROCAL COMMERCIAL BUS OPERATIONS. IN WHAT APPEARS TO BE ANOTHER CALCULATED MOVE, INDIA HAS TIED CONCESSIONS ON CARGO TRUCKS TO OPENING THE CRITICAL ICD FACILITY TO RAIL TRAFFIC. THE DIPLOMATIC MANEUVERING OVER THESE AGREEMENTS COMES AT THE EXPENSE OF NEPALESE CONSUMERS AND EXPORTERS, WHO FACE HIGHER COSTS. CONTINUED DELAY ONLY BENEFITS INDIA, AS A MEANS OF PRESSURING NEPAL INTO MAKING DEEPER CONCESSIONS.

MALINOWSKI